

**Title 35-A: PUBLIC UTILITIES HEADING:
PL 1987, c. 141, Pt. A, §6 (new)**

**Chapter 45: NATURAL GAS PIPELINE UTILITIES
HEADING: PL 1987, c. 141, Pt. A, §6 (new)**

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Maine Revised Statutes
Title 35-A: PUBLIC UTILITIES HEADING:
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§4501. DECLARATION OF POLICY

It is declared that the business of transporting natural gas within the State by interstate or intrastate natural gas pipeline utilities affects the public interest and that the health, safety and welfare of the inhabitants of the State require regulation in matters relating to the transportation of natural gas to the extent provided in this chapter. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4502. ORGANIZATION; POWER TO CONSTRUCT AND OPERATE PIPELINES

1. Organization of corporations to construct pipelines. Corporations for the purpose of constructing and operating natural gas pipelines may be organized under Title 13-C. Following organization under former Title 13-A or Title 13-C, the corporation has all the other rights, privileges and immunities of a legal corporation organized under Title 13-C, except as they are inconsistent with this chapter.

[2003, c. 344, Pt. D, §25 (AMD) .]

2. Interstate and intrastate pipelines. A natural gas pipeline utility, organized under the laws of this State or of any other state or of the United States to construct and operate an interstate natural gas pipeline, which holds a certificate of public convenience and necessity issued under federal law, authorizing it to construct and operate natural gas pipeline and appurtenant facilities within this State, or to construct and operate an intrastate natural gas pipeline, which has obtained authorization from the commission to construct and operate such intrastate natural gas pipeline or pipelines and appurtenant facilities, may, upon compliance with this chapter, purchase, hold and convey real estate and personal property for the purposes for which it was created.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 2003, c. 344, §D25 (AMD).

§4503. FILING CERTIFICATE OF PUBLIC CONVENIENCE

At least 30 days before beginning construction of an interstate natural gas pipeline within this State, the corporation shall file with the Secretary of State a certified copy of the certificate of public convenience and necessity issued to it under the Federal Natural Gas Act or, if the pipeline is intrastate, a certificate exhibiting the commission's authorization. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4504. EMINENT DOMAIN

(REPEALED)

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 605, §3 (AFF). 1999, c. 605, §1 (RP).

§4505. EXEMPTION FROM EMINENT DOMAIN

(REPEALED)

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1999, c. 605, §3 (AFF). 1999, c. 605, §1 (RP).

§4506. CONSTRUCTION REQUIREMENTS

1. Soil requirements. A natural gas pipeline must be laid at least 24 inches below the surface of the soil. The soil above the pipeline must be graded to the level of the adjacent land and left in good working condition unless otherwise agreed to by the natural gas pipeline utility and the property owner.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Damage to growing crops. The natural gas pipeline utility shall pay for any damage to growing crops caused by the construction, operation, maintenance, repair or reconstruction of a natural gas pipeline.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Driveways, drains, pipes and wires left in good condition. Driveways, drains, water pipes and other service pipes or wires located on land on which a natural gas pipeline is constructed shall be left in as good condition as they were prior to the construction, maintenance, repair or reconstruction of the pipeline, except when the natural gas pipeline utility and the owner of the property or right-of-way agree otherwise.

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Closing right-of-way prohibited. No driveway or right-of-way over the land on which a natural gas pipeline is located may, except during the construction, maintenance, repair or reconstruction of the pipeline, be closed for passage, except by agreement between the natural gas pipeline utility and the owner of the property or right-of-way.

[1987, c. 141, Pt. A, §6 (NEW) .]

5. Buildings. A building erected by a natural gas pipeline utility shall conform in its method of construction with the building laws or regulations in force in the location in which it is erected, and the exterior design of the building shall conform to the extent possible with the general architectural standards of buildings in the locality.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4507. FRANCHISE AREA; RESTRICTED SALE

A natural gas pipeline utility may not supply or sell natural gas to any person within the franchise area of another utility, which is authorized by the State to transmit or sell gas within the franchise area, except to that other utility, unless the other utility consents to the sale and the commission approves or the commission permits the sale, after notice and hearing. [1987, c. 490, Pt. C, §11 (AMD).]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1987, c. 490, §C11 (AMD).

§4508. POWERS AND AUTHORITY OF PUBLIC UTILITIES COMMISSION

1. Natural gas pipeline utilities subject to commission's authority. A natural gas pipeline utility organized to construct or operate an interstate natural gas pipeline that holds a certificate of public convenience and necessity issued under the Federal Natural Gas Act authorizing it to construct or operate a natural gas pipeline and appurtenant facilities within the State, or an intrastate natural gas pipeline utility that has obtained authorization from the commission, is subject to the authority of the commission. The commission shall adopt policies that reduce the probability of methane leakage from facilities as part of its regulation under this chapter.

[2013, c. 369, Pt. B, §2 (AMD) .]

2. Commission rules and limitation on commission authority. The commission may make necessary rules with respect to the natural gas pipeline utility's pipeline, equipment and manner of operation as they relate to the safety of the public and of the utility's employees, provided that the commission's authority is not inconsistent with or in violation of the Federal Natural Gas Act, as amended, or any rules, orders, regulations or certificates of public convenience and necessity issued under that Act.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Power to effectuate policies of this chapter. To effectuate the policies and provisions of this chapter and when determined necessary to obtain uniformity in the formulation, administration and enforcement of any order or rule issued under this chapter, or promulgated by an agency of the United States, pertaining to the regulating or handling of natural gas, the commission may:

A. Confer, cooperate and enter into compacts with the agency; [1987, c. 141, Pt. A, §6 (NEW) .]

B. Avail itself of records and facilities of the authority and make records and facilities available to the agency; [1987, c. 141, Pt. A, §6 (NEW) .]

C. Conduct joint investigations and hold joint hearings; [1987, c. 141, Pt. A, §6 (NEW) .]

D. Issue orders and rules jointly or concurrently with, or complementary to those issued by, the agency; and [1987, c. 141, Pt. A, §6 (NEW) .]

E. Collaborate with the agency and others in the development and operation of measures for the increased safety of the transportation and distribution of natural gas within the State. [1987, c. 141, Pt. A, §6 (NEW) .]

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 2013, c. 369, Pt. B, §2 (AMD).

§4509. APPLICATION OF THIS TITLE

A natural gas pipeline utility is subject to all provisions of this Title as far as applicable and to the orders and rules adopted and promulgated by the commission under the authority of this Title. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4510. SUBMISSION OF PLANS TO COMMISSION

Not less than 30 days before the solicitation of bids for construction or installation or, if bids are not solicited, not less than 30 days before actual construction or installation, the natural gas pipeline utility shall submit to the commission information concerning the engineering design of its pipeline and the standards of construction which it proposes to follow and any other information the commission determines necessary, so that it may determine whether the public safety and the safety of the utility's employees are being protected. If the commission finds that any part of the engineering design does not conform to the minimum standards of the American Standard Code of Pressure Piping, promulgated by the American Standards Association of New York, or that the condition of any part of the equipment or the manner of operating it are dangerous to the public safety or the employees' safety, it shall make an order to remedy the nonconformity or dangerous condition and furnish a copy of the order to the utility. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4511. SUBMISSION OF MAP TO COMMISSION

A natural gas pipeline utility, as soon as it has definitely established a route, but in any event not less than 30 days before the commencement of actual construction or installation, shall submit to the commission and to the governing body of each municipality through which it is proposed that the route shall pass, for their information, a map approved as to form by the commission that clearly sets forth the proposed route. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4512. COMPLIANCE WITH ORDERS

A natural gas pipeline utility subject to this chapter shall comply immediately with any proper order of the commission. [1987, c. 141, Pt. A, §6 (NEW).]

1. Failure to comply.

[2003, c. 505, §31 (RP) .]

2. Damages. In addition to the administrative penalty imposed pursuant to this Title, a natural gas pipeline utility that fails to comply with an order of the commission shall reimburse any person whose property is damaged as a result of the failure for the amount of the property damage and be liable in double damages for any injury resulting to a person from the failure.

[2003, c. 505, §32 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 2003, c. 505, §§31,32 (AMD).

§4513. INTERSTATE AND FOREIGN COMMERCE NOT AFFECTED

No provision of this chapter or of any order or rule under this chapter applies to or may be construed to apply to interstate or foreign commerce, except as far as the provision is effective pursuant to the Constitution of the United States under the laws of the United States. [1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4514. STANDING OF UTILITY IN FILING FOR PERMITS

1. Utilities may file for license and permit. When a natural gas pipeline utility, which intends to operate within this State, has filed for either a certificate of public convenience and necessity to be issued under the Federal Natural Gas Act or, in the case of an intrastate gas pipeline company, has filed for the necessary authorization from the commission, that utility may file and process an application for any license, permit or order necessary to obtain all governmental approvals with regard to the location, construction, completion and operation of that pipeline within this State. The effective date of the license, permit, order or governmental approval which is granted or issued may be conditioned upon or suspended until the issuance of the certificate of public convenience and necessity or commission authorization.

[1987, c. 141, Pt. A, §6 (NEW) .]

2. Application to Department of Environmental Protection before certificate is issued. If a natural gas pipeline utility applies to the Department of Environmental Protection for any required licenses or approvals before it is issued a certificate of public convenience and necessity under the Federal Natural Gas Act or authorization by the commission, it shall file a bond with the Department of Environmental Protection payable to the department in a form satisfactory to the Commissioner of Environmental Protection. The Commissioner of Environmental Protection shall determine the amount of the bond which may not exceed \$50,000. The bond shall be conditioned to require the applicant to reimburse the department for its costs incurred in processing any application in the event that the applicant does not receive a certificate of public convenience and necessity as described in this section.

[1987, c. 141, Pt. A, §6 (NEW) .]

3. Notification of landowners. A natural gas pipeline utility which applies for site location of development approval under Title 38, chapter 3, subchapter I, article 6, shall:

A. Prior to filing a notification under Title 38, section 483, provide notice to each owner of real property upon whose land the applicant proposes to locate a natural gas pipeline by registered mail, postage prepaid at the land owner's last known address as contained in the applicable tax assessor's record; and [1987, c. 141, Pt. A, §6 (NEW).]

B. File, with the town clerk of each municipality through which the pipeline is proposed to be located, a map demonstrating the intended approximate location of the pipeline within the municipality.

The applicant may not be required to provide notice of its intent to construct a natural gas pipeline other than as set forth in this subsection. [1987, c. 141, Pt. A, §6 (NEW).]

[1987, c. 141, Pt. A, §6 (NEW) .]

4. Company not excused from obtaining proprietary rights. Nothing in this section excuses a natural gas pipeline utility or other entity from obtaining appropriate proprietary rights in state-owned land prior to the construction or operation of a pipeline within this State.

[1987, c. 141, Pt. A, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW).

§4515. CEASE AND DESIST ORDERS

The commission may order a natural gas pipeline utility to cease and desist from operating or acting in violation of a statute or rule or order. Whenever practicable, the commission shall notify a natural gas pipeline utility against whom a cease and desist order is contemplated and afford it an opportunity to present its views and shall afford it reasonable opportunity to comply. Failure to notify and afford such an opportunity does not preclude the granting of appropriate relief. [2003, c. 505, §33 (AMD) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 2003, c. 505, §33 (AMD).

§4516. CIVIL VIOLATION

(REPEALED)

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1993, c. 113, §1 (AMD). 2003, c. 505, §34 (RP).

§4516-A. ADMINISTRATIVE PENALTY

1. Violation of this Title. The commission may impose an administrative penalty on a natural gas pipeline utility that violates any provision of this Title relating to safety of pipeline facilities or transportation of gas or any rule issued under this Title in an amount not to exceed \$200,000 for each violation. Each day of violation constitutes a separate offense.

[2013, c. 495, §1 (AMD) .]

2. Maximum administrative penalty. The maximum administrative penalty may not exceed \$2,000,000 for any related series of violations.

[2013, c. 495, §1 (AMD) .]

3. Determining amount of penalty. In determining the amount of the penalty, the commission shall consider the following:

- A. The nature, circumstances and gravity of the violation; [2003, c. 505, §35 (NEW) .]
- B. The degree of the natural gas pipeline utility's culpability; [2003, c. 505, §35 (NEW) .]
- C. The natural gas pipeline utility's history of prior offenses; [2003, c. 505, §35 (NEW) .]
- D. The natural gas pipeline utility's ability to pay; [2003, c. 505, §35 (NEW) .]
- E. Any good faith by the natural gas pipeline utility in attempting to achieve compliance; [2003, c. 505, §35 (NEW) .]
- F. The effect on the natural gas pipeline utility's ability to continue in business; and [2003, c. 505, §35 (NEW) .]

G. Such other matters as justice may require. [2003, c. 505, §35 (NEW).]

[2003, c. 505, §35 (NEW) .]

4. Payment of penalty. The amount of the administrative penalty may be:

A. Deducted from any sums owing by the State to the natural gas pipeline utility; or [2003, c. 505, §35 (NEW).]

B. Recovered in a civil action in the state courts. [2003, c. 505, §35 (NEW).]

[2003, c. 505, §35 (NEW) .]

5. Limitation on imposing penalty. Any action that may result in the imposition of an administrative penalty pursuant to this section must be commenced within 5 years after the cause of action accrues.

[2003, c. 505, §35 (NEW) .]

SECTION HISTORY

2003, c. 505, §35 (NEW). 2013, c. 495, §1 (AMD).

§4517. PRIVATE NATURAL GAS PIPELINES

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated compression or liquefaction facility" means a facility that is used to liquefy or compress natural gas for sale or distribution to others by means other than a pipeline and that is owned or operated by an affiliate of the owner of a private natural gas pipeline. [2011, c. 592, §1 (NEW).]

B. "Private natural gas pipeline" means a pipeline that is used solely for the transport of natural gas to a single customer and is owned by the customer and whose owner or operator is not otherwise regulated by the commission as a natural gas pipeline utility or gas utility. For purposes of this paragraph, "customer" includes an affiliate of a customer. [2011, c. 592, §1 (NEW).]

[2011, c. 592, §1 (RPR) .]

2. Safety regulation. The commission may exercise safety regulation over an entity that owns or operates a private natural gas pipeline on public land or land owned by a 3rd party, notwithstanding that the entity is not a public utility. The commission may exercise safety regulation over the owner or operator of an affiliated compression or liquefaction facility, notwithstanding that the owner or operator is not a public utility. Safety regulation under this subsection may be enforced as provided in sections 4515 and 4516-A.

[2011, c. 592, §2 (AMD) .]

3. Approval of construction. A private natural gas pipeline or affiliated compression or liquefaction facility may not be constructed without approval of the commission. When requesting approval, the entity that owns or operates a private natural gas pipeline or affiliated compression or liquefaction facility shall submit to the commission information concerning the engineering design of the pipeline or affiliated compression or liquefaction facility and the standards of construction the entity proposes to follow and any other information the commission determines necessary to make a determination of whether to approve construction. The commission shall approve the construction if the commission determines that the standards of construction of the pipeline or affiliated compression or liquefaction facility adequately protect the safety of the public.

[2011, c. 592, §2 (AMD) .]

4. Waiver. The commission may waive for good cause any requirements under this section.

[2011, c. 110, §1 (NEW) .]

5. Sale by affiliate of liquefied natural gas or compressed natural gas. The owner or operator of a private natural gas pipeline that delivers natural gas to its affiliate that then liquefies or compresses the natural gas for sale or distribution to others by means other than by a pipeline is not, as a result of the delivery, considered a public utility. The owner or operator of an affiliated compression or liquefaction facility is not considered a public utility if the owner or operator is not otherwise regulated by the commission as a public utility.

[2011, c. 592, §3 (NEW) .]

SECTION HISTORY

2011, c. 110, §1 (NEW). 2011, c. 592, §§1-3 (AMD).

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